

**2019CI23441**

CAUSE NO. \_\_\_\_\_

**HELEN CASTRUITA**

**V.**

**CESAR ORNELAS LAW, PLLC, CESAR  
ORNELAS, II, CESAR ORNELAS, GROUP  
OF LEGAL SPECIALTIES, LLC, LA PAZ –  
GRAHAM’S FUNERAL HOME, LLC, AND  
SALVADOR PERCHES**

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**IN THE DISTRICT COURT OF**

**BEXAR COUNTY, TEXAS**

408th **JUDICIAL DISTRICT**

**PLAINTIFF’S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, Helen Castruita, complains of Defendants, Cesar Ornelas Law, PLLC, Cesar Ornelas, II, Cesar Ornelas, I, Group of Legal Specialties, LLC, La Paz – Graham’s Funeral Home, LLC, and Salvador Perches and would respectfully show as follows.

**I  
DISCOVERY CONTROL PLAN**

1. Based upon this Petition, this case should be controlled by a discovery control plan Level 3 pursuant to the Texas Rules of Civil Procedure, Rule 190.3.

**II  
RULE 47 STATEMENT OF RELIEF**

2. In accordance with Texas Rule of Civil Procedure 47, Plaintiff seeks monetary relief over \$200,000 but not more than \$1,000,000. This is not an expedited action.

**III  
PARTIES**

3. Plaintiff, Helen Castruita, is a resident of El Paso, Texas and is the surviving biological mother of Blayne Caballero, deceased, and brings this action in her individual and representative capacity. The last three digits of her social security number are 742.

5. Defendant, Cesar Ornelas Law, PLLC, is a Texas Professional Limited Liability Company and may be served with citation by serving its registered agent, Cesar Ornelas, II, at his principle place of business, Cesar Ornelas Law, PLLC, 6243 IH10 W Suite 808, San Antonio, Texas 78201, or wherever he may be found.

6. Defendant, Cesar Ornelas, II, is an attorney with his principle place of business in San Antonio, Texas and may be served with citation by serving him at his principle place of business, Cesar Ornelas Law, PLLC, 6243 IH10 W Suite 808, San Antonio, Texas 78201, or wherever he may be found.

7. Defendant, Cesar Ornelas, I, is an individual residing in Cameron County, Texas and may be served at his principle residence, 32649 Edgewater Isle Drive, Los Fresnos, Texas 78566, or wherever he may be found.

8. Defendant, Group of Legal Specialties, LLC, is a Texas Limited Liability Company with its principle place of business in Cameron County, Texas and may be served by serving its registered agent, Cesar Ornelas, I, at 301 East Harrison Ave, Harlingen, Texas 78550, or wherever he may be found.

9. Defendant, La Paz – Graham’s Funeral Home, LLC is a New Mexico Limited Liability Company with its principle place of business in Doña Ana County, New Mexico and may be served by serving its owner, Salvador Perches, at 3331 Alameda Avenue, El Paso, Texas 79905, or wherever he may be found.

10. Defendant, Salvador Perches, is an individual residing in Texas and may be served at his principle place of business residence, Perches Funeral Home, at 3331 Alameda Avenue, El Paso, Texas 79905, or wherever he may be found.

#### **IV JURISDICTION AND VENUE**

11. This Court has subject matter jurisdiction over the controversy because the claims asserted in this Petition arose, in whole or in part, in Texas and the amount in controversy exceeds the minimum jurisdictional limits of this Court.

12. This Court has personal jurisdiction over each Defendant because the acts and omissions complained of herein occurred in Texas, each Defendant does and/or did do business in the State of Texas, has committed a tort, in whole or in part in Texas, is a resident and citizen of Texas, and/or has minimum contacts with the State of Texas during the period of time complained of herein.

13. Venue is properly laid in Bexar County, Texas because Defendants Cesar Ornelas, II and Cesar Ornelas Law, PLLC reside in and/or have a principal place of business in Bexar County, Texas. TEX. CIV. PRAC. & REM. CODE § 15.002(a)(2), (3). Proper venue for one Defendant is proper venue for all Defendants because these claims arise out of the same transaction, occurrence, or series of transactions or occurrences. *Id.* at § 15.005.

#### **V FACTUAL BACKGROUND**

14. This is a civil barratry case against Texas lawyer Cesar Ornelas, II, his law firm, Cesar Ornelas Law, PLLC, his father, Cesar Ornelas, I, his father's company, Group of Legal Specialties, LLC, and La Paz – Graham's Funeral Home, LLC and its owner, Salvador Perches, arising out of a conspiracy to illegally and unethically solicit clients. At all material times, these Defendants, along with their employees or agents, were engaged in a conspiracy, partnership and/or joint venture to improperly and illegally solicit clients who were victims (or family members of victims) of catastrophic accidents. The Plaintiff in this lawsuit is one unknowing

victim of this barratry scheme and she brings this action pursuant to Texas Government Code § 82.0651 to recover statutory damages, including penalties and attorneys' fees.

**A. The Illegal Solicitation Venture.**

15. Cesar Ornelas, I ("Ornelas Jr.") and his father have made it a family business to profit from the deaths and injuries of others. Cesar Ornelas, I ("Ornelas Sr.") is the owner of several funeral homes throughout Texas and the president of a "marketing firm" named Group of Legal Specialties, LLC ("GLS"). Under the guise of a "Business Development Manager" for GLS,<sup>1</sup> Ornelas Sr. illegally "develops business" for his son's law firm, the Cesar Ornelas Law, PLLC ("Ornelas Firm"), through improper personal solicitation. Ornelas Sr. regularly sponsors meetings in the funeral home industry where he distributes brochures explaining to the funeral directors exactly how to solicit clients for his son's law firm.<sup>2</sup> These funeral directors are trained to refer any families with a potential lawsuit to GLS, who will then refer the families to Ornelas Firm. In exchange, the funeral directors receive compensation and the families receive paid funeral expenses.<sup>3</sup> Perches is one of these funeral directors who owns La Paz – Graham's Funeral Home, LLC ("La Paz"), a funeral home in Las Cruces, New Mexico. Perches and Ornelas Sr. have a long

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<sup>1</sup> The business card for Ornelas Sr. looks like this:



<sup>2</sup> One such brochure is attached hereto as Exhibit 1.

<sup>3</sup> See Exhibit 1.

history together, and together they use their respective companies (GLS and La Paz) to illegally solicit clients for Ornelas Jr. and the Ornelas Firm.

16. Ornelas Jr. is a young lawyer who graduated law school in 2016 but has allegedly already obtained more than \$20 million in settlements for his clients.<sup>4</sup> Ornelas Jr. claims to have offices in Carlsbad, New Mexico, although he is not licensed to practice law there. In addition to obtaining cases solicited from his father's company GLS, Ornelas Jr. employs many of his own case runners, including Victor Chavez, Veronica Reyes and Sally Diaz. These case runners have business cards that state they do "Business Development" for the Ornelas Firm.<sup>5</sup> Reyes has solicited most of the funeral homes in West Texas and Eastern New Mexico, seeking referrals for the Ornelas Firm and, at the instruction of Ornelas Jr., offering to pay referral fees to funeral directors. Some funeral directors have received more than \$100,000 for referring cases to the Ornelas Firm, while others have received lavish trips abroad, such as to Puerto Rico.

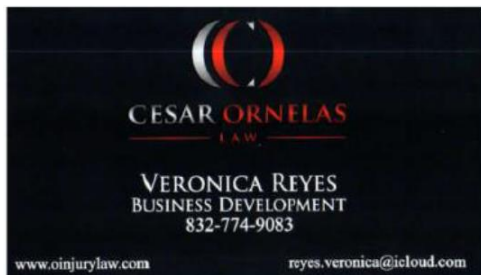
**B. The Illegal Solicitation of Helen Castruita.**

17. Blayne Caballero was a three-year old child who died in a house fire on or about March 26, 2017 in Las Cruces, New Mexico. Blayne was survived by his biological mother, Plaintiff Helen Castruita. Shortly after her son's tragic and untimely death, Helen went to La Paz to make funeral arrangements for her deceased toddler. While visiting La Paz, Perches personally

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<sup>4</sup> <https://oinjurylaw.com/about-attorney-cesar-ornelas/>

<sup>5</sup> The business card for one of the runners, Veronica Reyes, looks like this:



solicited Helen to hire the Ornelas Firm, telling her that she should get justice for her son. Perches called Ornelas Jr. from his office phone and put him on speaker. Perches and Helen spoke directly to Ornelas Jr., who told Helen he would pay for the funeral arrangements if she agreed to hire his firm. Based on this personal solicitation, Helen agreed to hire the Ornelas Firm. Perches then provided Helen with an Ornelas Firm contract, which she signed as a direct result of the illegal and unethical solicitation.

## **VI STATEMENT OF CLAIMS AND THEORIES OF LIABILITY**

18. Therefore, it has become necessary to bring this suit to collect a legal and equitable debt of money damages owing to Plaintiff due to the Defendants' conduct. Specifically, Plaintiff brings claims against Defendants, jointly and severally, for civil barratry, civil conspiracy and aiding and abetting.

### **A. Civil Barratry Under Texas Government Code 82.0651**

19. Section 82.0651 of the Texas Government Code allows a person who was solicited by conduct violating the Texas Penal Code or the Texas Disciplinary Rules of Professional Conduct prohibiting barratry to sue "any person who committed barratry" and recover damages, civil penalties and attorney's fees. *See* TEX. GOV'T CODE § 82.0651.

20. All Defendants, with intent to obtain an economic benefit, violated several provisions of the Texas Penal Code prohibiting barratry, including:

- Section 38.12(a)(2) which prohibits a person from soliciting employment, either in person or by telephone, for himself or another.
- Section 38.12(a)(3) which prohibits a person from paying or advancing or offering to pay or advance to a prospective client money or anything of value to obtain employment.

- Section 38.12(a)(4) which prohibits a person from paying or offering to pay third parties to solicit employment.
- Section 38.12(a)(6) which prohibits a person from accepting or agreeing to accept money or anything of value to solicit employment.
- Section 38.12(b)(1) which prohibits a person from knowingly financing the commission of barratry, including the personal solicitation of clients or the offering money to clients in exchange for legal representation.
- Section 38.12(b)(2) which prohibits a person from knowingly investing funds the person knows or believes are intended to further barratry, including the personal solicitation of clients or the offering money to clients in exchange for legal representation.
- Section 38.12(b)(2) of the Texas Penal Code prohibits a person, who is a professional, from knowingly accepting employment within the scope of their license that resulted from improper personal solicitation.

21. Furthermore, Ornelas Jr. and the Ornelas Firm violated Texas Disciplinary Rule of Professional Conduct 7.03. Section (a) of this rule prohibits a lawyer from seeking professional employment by in person or by telephone when the nonclient has not sought the lawyer's advice regarding employment or when no past or present attorney-client relationship exists when a significant motive is pecuniary gain. Section (b) of this rule prohibits a lawyer from paying or offering to pay anything of value to a person not licensed to practice law for soliciting prospective clients for or for referring prospective clients. Section (d) prohibits a lawyer from entering into an agreement which was obtained through violations of Sections (a) or (b). Ornelas Jr. and the Ornelas Firm violated these sections through the conduct described herein.

**B. Civil Conspiracy and Aiding and Abetting**

22. As set forth above, Defendants were members of a combination of two or more persons. The object of the combination was to accomplish an unlawful purpose by unlawful means – the unlawful barratry and solicitation of Plaintiff. The members, one or more of the Defendants herein and other third parties, had a meeting of the minds on the object or course of action, to gain the representation of Plaintiff by illegal and unethical solicitation. As alleged above, one or more of the members committed an unlawful, overt act in furtherance of the object or course of action. As such, Defendants are jointly and severally liable for each other's violations of Texas Government Code, Section 82.0651.

**VII  
VICARIOUS LIABILITY**

23. Defendants are vicariously liable under a theory of partnership. Defendants, individually and through their respective firms or entities, formed various partnerships and entered into various agreements to associate for profit. Each Defendant received or had a right to receive a share of the profits, expressed intent to be a partner in the ventures, participated or had a right to participate in the control of the business, shared or agreed to share the losses of the business or liability, and/or contributed or agreed to contribute money. Accordingly, each Defendant is a member of the partnership formed for the purpose of carrying on the barratry activities described herein and each is liable for the conduct of one another as described herein all of which occurred within the course and scope of the partnership.

24. Defendants are also vicariously liable under a theory of joint enterprise or joint venture. Defendants were engaged in a joint enterprise or joint venture because they had express and implied agreements to carry out the actions outlined herein. Defendants had a community of pecuniary interest in that common purpose and an equal right to direct and control the enterprise



or venture. Defendants each took actions in furtherance of the purpose of the joint enterprise, which was to commit barratry.

## **VIII DEFENSES TO LIMITATIONS**

25. To the extent necessary, Plaintiff affirmatively pleads the discovery rule, fraudulent concealment and/or the *Hughes* tolling rule to any defense of limitations asserted by Defendants regarding any of Plaintiff's claims or causes of action. Plaintiff did not discover, nor could she have discovered through reasonable diligence, Defendants' barratry scheme. Acts of barratry are inherently undiscoverable. Even if Plaintiff knew she had been solicited, she may not know, nor could she reasonably discover, that she had been wrongfully solicited and injured because of this solicitation.

## **IX RESPONDEAT SUPERIOR**

26. Plaintiff pleads the legal theory of *respondeat superior* as between the individual lawyers named herein and their respective law firms.

## **X DAMAGES**

27. Plaintiff seeks damages within the jurisdictional limits of this Court. Texas Government Code, Section 82.0651 provides that a person who prevails in a civil barratry action may recover from each Defendant actual damages, statutory damages in the amount of \$10,000 per violation per Defendant and reasonable and necessary attorney's fees. Defendants each committed no less than four acts of barratry in relation to the illegal and improper solicitation of the Plaintiff. Therefore, each Defendant is liable to the Plaintiff for at least \$40,000. Accordingly, Plaintiff seeks total statutory damages in the amount of at least \$240,000.

27. In addition, Plaintiff seeks reasonable and necessary attorney's fees. *See* TEX. GOV.

CODE §§ 82.0651(b)(5), (d)(3).

**XI  
JURY DEMAND**

28. Plaintiff desires to have a jury decide this case and make this formal request pursuant to Texas Rule of Civil Procedure 216. This request is filed more than thirty days before this case has been scheduled for trial and all fees have been paid.

**XII  
REQUESTS FOR DISCLOSURE**


29. Plaintiff requests that Defendants disclose all information and documents required under Rule 194, Texas Rules of Civil Procedure within the time required under this rule.

**XIII  
PRAYER**

WHEREFORE, Plaintiff prays that after trial herein, that judgment be entered against Defendants jointly and severally as prayed for, that costs of court be taxed against Defendants, that Plaintiff be given prejudgment as well as post judgment interest, and for such other and further relief, at law and in equity to which Plaintiff may show herself to be justly entitled, to which the Court believes Plaintiff to be deserving, and for which Plaintiff will ever pray.

Respectfully submitted,

**THE KASSAB LAW FIRM**



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